

72-7-104 Installations constructed in violation of rules -- Rights of highway authorities to remove or require removal.

- (1) If any person, firm, or corporation installs, places, constructs, alters, repairs, or maintains any approach road, driveway, pole, pipeline, conduit, sewer, ditch, culvert, outdoor advertising sign, or any other structure or object of any kind or character within the right-of-way of any highway without complying with this title, the highway authority having jurisdiction over the right-of-way may:
 - (a) remove the installation from the right-of-way or require the person, firm, or corporation to remove the installation; or
 - (b) give written notice to the person, firm, or corporation to remove the installation from the right-of-way.
- (2) Notice under Subsection (1)(b) may be served by:
 - (a) personal service; or
 - (b)
 - (i) mailing the notice to the person, firm, or corporation by certified mail; and
 - (ii) posting a copy on the installation for 10 days.
- (3) If the installation is not removed within 10 days after the notice is complete, the highway authority may remove the installation at the expense of the person, firm, or corporation.
- (4) A highway authority may recover:
 - (a) the costs and expenses incurred in removing the installation, serving notice, and the costs of a lawsuit if any; and
 - (b) \$10 for each day the installation remained within the right-of-way after notice was complete.
- (5)
 - (a) If the person, firm, or corporation disputes or denies the existence, placement, construction, or maintenance of the installation, or refuses to remove or permit its removal, the highway authority may bring an action to abate the installation as a public nuisance.
 - (b) If the highway authority is granted a judgment, the highway authority may recover the costs of having the public nuisance abated as provided in Subsection (4).
- (6) The department, its agents, or employees, if acting in good faith, incur no liability for causing removal of an installation within a right-of-way of a highway as provided in this section.
- (7) The actions of the department under this section are not subject to the provisions of Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 382, 2008 General Session